(1)

Supreme Court, U.S.
FILED

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No.

IN THE

UNITED STATES SUPREME COURT

PEOPLE OF THE STATE OF ILLINOIS,)
)
Respondent,)
vs.)
)
ROBERT J. SHARPENTER,)
)
Defendant-Petitioner.)

ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES SUPREME COURT
FROM THE ILLINOIS APPELLATE COURT,
SECOND APPELLATE DISTRICT, ELGIN, ILLINOIS

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ORAL ARGUMENT REQUESTED

31pp

I.

QUESTIONS PRESENTED FOR REVIEW

1. When a statute provides "A notice of a violation of this Act shall be given . . . " Was the property of the Defendant, ROBERT J. SHARPENTER, being two donkeys and one goat, taken without notice, and seized in violation of Constitutional Amendment Rights?

2. Was the 6-5-2000 payment amount ordered in excess of the maximum amount, $1,500, for a Class C Misdemeanor Illinois Compiled Statutes Chapter 730 Section 5/5-9-1 (3) Authorized Fines, and therefore in violation of United States Constitutional Amendment Rights?

3. Is a subsequent 1-3-2001 NOT GUILTY ORDER, on all four counts, in the same case, for the same defendant, for the same animals being two donkeys and one goat, for the same four days, an order that takes precedence, and is controlling over a prior 6-5-2000 order for payments entered when the Defendant ROBERT J. SHARPENTER, represented himself ?

4. When a statute provides "A notice of violation of this Act shall be given . . ." and each count of the complaint fails to allege notice, is the complaint sufficient?

5. When a statute provides, "A notice of violation of this Act shall be given . . .", is the complaint sufficient when in each count of the complaint fails to allege notice within the one year and six month statute of limitations for a Class C Misdemeanor, Illinois Compiled Statutes, Chapter 720 Section 5/3-5.

6. When a statute provides, "A notice of violation of this Act shall be given . . ." was a 3 year old written notice in 1997; and a 2 year old oral notice in 1998, and no notice in the year 1999, and no notice in the year 2000, sufficient notice of Domestic Animals Running at Large, to impound the animals of Defendant ROBERT J. SHARPENTER, being two donkeys and one goat, 3-20-2000 ?

7. When a defendant is found NOT GUILTY, should the seized property of the defendant, except contraband, be returned to the Defendant ?

II.

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III.

TABLE OF CITED AUTHORITIES

1. Illinois Compiled Statutes 510 ILCS 55

   ACT 55. ILLINOIS DOMESTIC ANIMALS RUNNING AT LARGE ACT

2. Illinois Compiled Statutes 720 ILCS 5/3-5

   GENERAL LIMITATIONS

3. Illinois Compiled Statutes 730 ILCS 5/5-9-1(3)

   AUTHORIZED FINES

4. Dutton v. Roo-Mac, Inc.,
   100 Ill App 3d 116, 121, 55 Ill Dec 458,
   426 N.E. 2d 604 (1981)

5. UNITED STATES CONSTITUTION, AMENDMENT FOUR

   The Right to Own Property and be free from Unreasonable Searches and Seizures

6. UNITED STATES CONSTITUTION, AMENDMENT EIGHT

   Cruel and Unusual Punishment

7. UNITED STATES CONSTITUTION, AMENDMENT FOURTEEN

   Due Process of Law, Equal Protection Under the Law

8. People v. McCarty

   11 Ill App 3d 421, 296 NE 2d 862 (1973)

9. Manny Cab Co. v. McNeill Teaming Co.

   28 Ill App 3d 1014, 329 NE 2d 376 (1975)

10. In re G.F.H.

    315 Ill App 3d 711, 715, 734 NE 2d 519,

    248 Ill Dec 591 (2000)

11. Middle Rio Grande Conservancy Dist. v. Babbitt

    206 F Supp 2d 1156

12. U.S. v. Microsoft Corp.

    215 F Supp 2d 1

13. People v. Brown
    118 Ill App 3d 609, 611, 74 Ill Dec 287
    455 NE 2d 287, (1983)

14. Trigon Ins. Co. v. U.S

    215 F Supp 2d 687

15. Cole v. Central States Southeast and Southwest

    Areas Health and Welfare Fund

    225 F Supp 96

16. Fairbanks Capital Corp. v. Jenkins

    225 F Supp 2d 910

IV.

CITATIONS OF OFFICIAL AND UNOFFICIAL REPORTS OF THE OPINIONS AND ORDERS ENTERED IN THE CASE BY COURTS

People of the State of Illinois vs. ROBERT J. SHARPENTER, No. 2-01-0070, Summary Order entered In the Appellate Court Of Illinois, Second District, Elgin, Illinois, Filed 3-8-2002, Appeal from Circuit Court of Kendall County, Yorkville, Illinois, Case No. 00-CM-0361, entered 6-5-2000. US 1-4

V.

CONCISE STATEMENT FOR UNITED STATES SUPREME COURT JURISDICTION

(a). Dates Judgement Orders Entered

11-5-2002 Motion for Leave to File Motion for Reconsideration and/or Rehearing of Petition for Leave to Appeal Denied by Supreme Court of Illinois, US 7

10-2-2002 Petition for Leave to Appeal to Supreme Court of Illinois Denied by Supreme Court of Illinois, US 6

4-10-2002 Petition for Rehearing in the Illinois Appellate Court Denied by Illinois Appellate Court, PET LA 27, US 5

3-8-2002 Summary Order entered by Illinois Appellate Court, Second Appellate District, Elgin, Illinois, No. 2-01-0070, PET LA 1-4, US 1-4

1-3-2001 NOT GUILTY on all four counts order, same case, the same Defendant, Circuit Court of Kendall County, Yorkville, Illinois Case No. 2000 CM 0361, (R.C245-248) A 4-7, PET LA 52-55, US 38-42

6-5-2000 Order for payments $200 transportation, of two donkeys and one goat, plus $2,056.00 care and maintenance of two donkeys and one goat 3-20-2000 to 6-5-2000, plus $25.00 per day 6-5-2000 until Defendant ROBERT J. SHARPENTER pays the Court ordered amounts and picks up his animals, continuing payments might amount $16,025.00 as of 3-8-2002, (R.C48-50) A 44-46, PET LA 91-93, US 30-35

The Petition for Writ of Certiorari is filed within 90 days of 11-5-2002 Denial of Review by the Illinois Supreme Court, and mailed 1-31-2003 then received was postmarked February 1, 2003.

(b). Statutory Provision Believed to Confer Jurisdiction to review on a Writ of Certiorari, the judgment order in question United States Supreme Court Rule 10. Part III. JURISDICTION ON WRIT OF CERTIORARI

(c). State Court has decided an important question of federal law that has not been, but should be, settled by this Court, or has decided an important federal question in a way that conflicts with relevant decisions of this Court.

VI.

CONSTITUTIONAL PROVISIONS, STATUTES INVOLVED

(1). ACT 55. ILLINOIS DOMESTIC ANIMALS RUNNING AT LARGE ACT requires a notice of violation 510 ILCS 55 states:
"55/1.2 A notice of violation of this Act shall be given . . ."

(2). ILLINOIS COMPLIED STATUTES, Chapter 720 Section 5/3-5. Each Count of the Complaint fails to allege notice, and each Count of the Complaint fails to allege notice within the one year six month statute of limitations for a Class C Misdemeanor

(3). UNITED STATES CONSTITUTION,
AMENDMENT FOUR
Right to Own Property and Be Free From
Unreasonable Searches and Seizures

(4). UNITED STATES CONSTITUTION,
AMENDMENT EIGHT
Cruel and Unusual Punishment

(5). UNITED STATES CONSTITUTION,
AMENDMENT FOURTEEN
Section 1. Due process of law, equal protection of the law

(6). ILLINOIS COMPILED STATUTES Chapter 730 Section 5/5-9-1 (3). The 6-5-2000 payment amounts ordered exceed the maximum amount, $1,500.00, for a Class C Misdemeanor

VII.

STATEMENT OF THE CASE INCLUDING FACTS

Defendant ROBERT J. SHARPENTER received 3 year old 1997 written notice from Kendall County Sheriff, and 2 year old 1998

oral notice from Kendall County Sheriff, and no year 1999 notice, and no year 2000 notice, that his animals, being two donkeys and one goat were outside their fenced area and considered running at large. Memorandum of Law filed 11-20-2000 (R.C. 189-207), A 133-152, PET LA 182-187. Transcript 10-30-2000 page 31. (R 10-30-2000, R.31). Hearing (Trial) 5-30-2000 Exhibits TE 1-14, PET LA 35-48. Also Sharpenter Legal Brief filed 6-2-2000 (R.C.40-46) A 37-43, PET LA 18-24. Sharpenter Petition for Reconsideration filed 6-19-2000 (R.C.53-58)A 50-52, PET LA 97-99.

Notice was as follows:

Year 2000	NO NOTICE
Year 1999	NO NOTICE
Year 1998	One purported oral notice
Year 1997	One Sheriff's written notice

March 20, 2000 the animals of the Defendant were impounded by Sheriff of Kendall County, Illinois. A20-21, PET LA 68-69. Defendant ROBERT J. SHARPENTER was charged in a four count complaint alleging violations of Paragraph 55/1 Chapter 510, Illinois Compiled Statutes, Illinois Domestic Animals Running at Large Act, a Class C Misdemeanor. (R.C.10-13)A 15-18, PET LA 63-66.

Kendall County also filed against Defendant ROBERT J. SHARPENTER, a "PETITION FOR ORDER PURSUANT TO 510 ILCS 55/1.2." and that statute provides at 1.2

"1.2 A notice of violation of this Act shall be given to the person or owner of livestock running at large if known . . ."

That Kendall County PETITION FOR ORDER PURSUANT TO 510 ILCS 55/1.2" includes:

"3. That on March 20, 1997, the defendant was served with a Notice of Violation of Illinois Domestic Animals Running At Large Act, pursuant to 510 ILCS 55/1.2 by the Kendall County Sheriff's Department for the livestock described in paragraph #2.

4. That on March 12, 2000, March 13, 2000, March 19, 2000, and March 20, 2000 The livestock described in paragraph #2 were observed running at large, having strayed from confinement or constraint of their owner.

5. That on March 20, 2000 the livestock described in paragraph #2, pursuant to 510 ILCS 55/1.2 were impounded by the Kendall County Sheriff's Department . . ." (R.C.14-16) A20, PET LA 68.

11

Each count of the complaint fails to allege notice, and each count of the complaint fails to allege notice within the statue of limitations. Each count of the complaint fails to charge an offense. Transcript 10-24-2002 (R. 10-24-2000, R 15-18) (RS 1 through S 18), A 158-172, PET LA 206-220. Also MEMORANDUM (S1 through S18), A 134-152, PET LA 181-200. also see MOTION TO DISMISS FOR VIOLATION OF STATUTE OF LIMITATIONS (R. C147-150), A84-87, PET LA 132-135. Judge JAMES WILSON'S 1-2-2001 letter that accompanies 1-3-2001 order, states on the third page, "A prior 1997 notice is insufficient to support the criminal complaints alleging events that occurred in March 2000." (R.C245-247) A 4-6, PET LA 52-54, US 38-42.

Defendant ROBERT J. SHARPENTER testified that before impoundment 3-20-2000, he received no notice in the year 2000, and had no knowledge in the 2000, that his animals were running at large. (R. 11-27-2000, R 31-36), A 182-187, PET LA 230-235.

Defendant ROBERT J. SHARPENTER represented himself 5-30-2000 at a Court Hearing at the Kendall County Courthouse, Yorkville, Illinois and there was a Court Exhibits sheet, and some of the 5-30-2000 exhibits

were bar coded. HEARING (TRIAL) 5-30-2000 EXHIBITS, TE 1 through TE 14, PET LA 35 through PET LA 35-48.

Although Judge James Wilson said either side could file a legal brief, the Kendall County State's Attorneys Office did not file a legal brief after the 5-30-2000 Court Hearing, and before the 6-5-2000 court order.

Defendant ROBERT J. SHARPENTER filed, pro se, 6-2-2000, a legal brief with typed cover and 6 typed pages. (R.C 40-46), A 37-43, PET LA 18-24.

The payments Judge JAMES WILSON ordered 6-5-2000, were in excess of the maximum amount, $1500.00, for a Class C Misdemeanor. Illinois Compiled Statutes Chapter 720 Section 3-5. (R.C.68-70) A 44-46, PET LA 91-93, US 30-35.

Defendant ROBERT J. SHARPENTER was found 1-3-2001, NOT GUILTY on all four counts, in the same case, for the same four days 3-12-2000, 3-13-2000, 3-19-2000, 3-20-2000, for the same animals, two donkeys and one goat, that were the subject of the 6-5-2000 order for payments. (R.C.245-247,249) A 4-A7, PET LA 52-55, US 38-42.

VIII.

ARGUMENT

The Appellate Court overlooked and/or misapprehended:

1. The word ". . . shall . . ." in the first part of the sentence,
   "55/1.2 A notice of violation of this Act shall be given ..."
   55 ILCS 1.2.
   Transcript 11-27-2000, (R.11-27-2000, R.,11).
2. The capital, or upper case "A", of the word Act in:
   "55/1.2 A notice of violation of this Act shall be given ..."
   55 ILCS 1.2
   Transcript 11-27-2000, (R. 11-27-2000, R.11).
3. The word shall is mandatory, and should not be considered permissive.
4. Act is spelled with a capital A, and thus Act begins with the title of the Act, and goes through the last paragraph of the Act.
5. The Appellate Court overlooked the conjunctive,
   " . . . and . . ." before 24 hour corrections.

Judge JAMES WILSON was reversed by the Illinois Appellate Court, and the same Illinois Appellate Court Judge Robert McLaren, in a case involving the word shall, in the case In re G.F.H. 315 Ill. App. 3d 711, 715. "The legislature's use of "shall" ordinarily denotes a mandatory obligation. In re Justin T., 291 Ill. App. 3d 872,

878 (1997). This is especially so when the legislation at issue explicitly recognizes that court's failure to follow the legislature's instructions may cause serious harm."

When a statute uses the word "shall" Congress has imposed mandatory duty upon subject of command. Middle Rio Grande Conservancy Dist. v. Babbitt, 206 F. Supp. 2d 1156.

Court should give effect, if possible, to every clause and word of the statute. U.S. v. Microsoft Corp., 215 F. Supp. 2d 1.

The term "Act" by definition, refers to the Illinois Vehicle Code when used within Chapter 95 ½ (Ill. Rev. Stat. 1981, ch 95 ½, par. 1-101.1). It is an elementary rule of statutory construction that penal statutes are to be strictly construed against the State and in favor of the defendant. Edwards v. Hill 1849, 11 Ill. 22, (1840), People v. Brown 118 Ill. App 3d 609, 611 (1983).

To ascertain whether statutory language is clear or ambiguous, courts look to the language of the statute itself, the specific context in which the language is used, and the broader context of the statute as a whole. Trigon Ins. Co. v. U.S. 215 F. Supp. 2d 687. A statute ought, upon the whole, to be so construed that, if it can

be prevented, no clause, sentence or word shall be superfluous, void or insignificant. Cole v. Central States Southeast and Southwest Areas Health and Welfare Fund, 225 F. Supp. 96.

In construing a statute, a court must read it as an integrated whole, so as to give meaning to all its terms. Fairbanks Capital Corp. v. Jenkins 225 F. Supp. 2d 910.

The fact Act is spelled with a capital A, "A notice of violation of this Act shall be given . . ."

Was raised in the trial court 11-27-2000, and that transcript at page 11 states in pertinent part:

> "MR. BOWMAN: Judge, as far as statutory construction is concerned, it says a notice of violation of the Act shall be given, and Act is capitalized. The Act begins with the title and it goes through the last paragraph that says, a violation of this Act is a Class C misdemeanor. Notice applies to the whole thing, and it starts with the title." Transcript 11-27-2000, (R.11-27-2000, R.11).

The Appellate Court overlooked notice must be alleged, and notice must be alleged within the Statute of Limitations.

You can not just seize a man's animals, and take them out of the county, and presumably through the county to the North, and to another county farther North, and order the owner of the animals to pay $200.00 transportation, plus $25.00 per day starting with the day

of impoundment, until he pays the Court ordered amounts, and picks up his animals.

That is clear violation of UNITED STATES CONSTITUTION, AMENDMENTS: FOUR, unreasonable searches and seizures, EIGHT, cruel and unusual punishment, FOURTEEN, due process of law, equal protection under the law.

Assistant States Attorney Eric Weis subpoenaed two witnesses from two other counties to testify 5-30-2000; Thomas Goodenough, a former Kendall County Deputy Sheriff, and at the time of the year 2000 court proceedings, a Geneva, Kane County, Illinois policeman, and also and Donna Ewing of the Hooved Animal Humane Society, Woodstock, McHenry County, Illinois. (R. C37-38) A 34-35, PET LA 82-83.

It is interesting and might be relevant that the old Kane County Courthouse is at Geneva, Illinois, and law division cases are still heard there, and the McHenry County Courthouse is at Woodstock, Illinois.

Defendant ROBERT J. SHARPENTER went to court 5-30-2000, at the Kendall County Courthouse, Yorkville, Kendall County Illinois, and faced two out of county subpoenaed witnesses, and the State's Trial Exhibits, including the three year old notice.

STATE EXHIBIT NO. ONE A Proof of service of a Sheriff's notice of Animals Running at Large approximately 3 years earlier, 3-20-1997, and that service of notice was exactly 3 years before his animals were impounded 3-20-2000 TE 2, PET LA 36.

STATE EXHIBIT NUMB 1 B The NOTICE OF VIOLATION OF ILLINOIS DOMESTIC ANIMALS RUNNING AT LARGE ACT, from the Kendall County Sheriff Department, and dated approximately 3 years earlier, March 12, 1997, and that was exactly 3 years before the first year 2000 complaint date of alleged violation 3-12-2000. TE 3-4, PET LA 37-38.

That three year old written notice and service by the Sheriff of Kendall County was the only notice alleged in the PETITION FOR ORDER PURSUANT TO 510 ILCS 55/1.2, (R.C14-16), A 20-22, PET LA 68-70. That notice was used 5-30-2000, by the Kendall County States Attorneys office as Court Exhibit NO ONE A, and NUMB 1B, and are in the Supplemental appendix as Trial Exhibits, (TE 1-4), PET LA 35-38.

The 10-30-2000 Kendall County trial transcript, Transcript 10-30-2000 (R. 10-30-2000, R. 31-33), A140-142, PET LA 188-190, shows at page 31, and continuing,

Asst. State's Attorney JEAN FLETCHER:

"We're establishing that Mr. Sharpenter not only

received notice in 1997, but that he also received one oral notice in 1998. I'm simply establishing for the first time that there was an ongoing notification by the Sheriff's Department, one being in writing, the second being oral, and that there—

I would analogize this to criminal trespass. Once you notify someone that they are not to come on your property, you don't have to re-serve them every year for that notification to be good—to be sufficient for a criminal trespass charge some two or three years down the road . . ."

And I would suggest to the Court that once we establish that Mr. Sharpenter was given statutory written notice in 1997, that he was notified his animals were not to be loose again. . .

The notification in 1997 does carry into the year 2000. It carries into the year 2002 as far as the statute appears to provide for."

The 1997 notice is beyond the one year and six month statute of limitations.

Human beings can sometimes read and comprehend a no trespassing notice. Animals, like two donkeys and one goat, cannot read or comprehend a no trespassing notice.

Assistant States Attorney JEAN FLETCHER began her 11-27-2000 cross examination by asking Defendant ROBERT J. SHARPENTER about his work, Transcript 11-27-2000, page 34 and continuing, (R 11-27-2000, R. 34-36), A 182-187, PET LA 230-235.

> "MS. FLETCHER: Judge, I believe that the reason of asking these questions is to establish that Mr. Sharpenter in fact was gone for more than twelve hours on those days and he was not at home to receive notice from Mr. Baker, nor was he home when these animals were allegedly running at large.
>
> It doesn't relieve him of liability but it would certainly go to whether or not he was there, and once – so he really can't say whether those animals were out or not because he wasn't present, he was at his office in Montgomery." A186-187, PET LA 234-235.

THE STATE WAS TRYING TO PROVE Defendant ROBERT J. SHARPENTER was at work and not present the days of alleged violation 3-12-2000, 3-13-2000, 3-19-2000, 3-20-2000.

THE STATE CHOSE NOT TO NOTIFY Defendant ROBERT J. SHARPENTER WHEN HE WAS AT WORK 3-12-2000, 3-13-2000, 3-19-2000, 3-20-2000, that his animals were running at large.

THE STATE CHOSE NOT TO NOTIFY Defendant ROBERT J. SHARPENTER WHEN HE RETURNED FROM WORK 3-12-2000, 3-13-2000, 3-19-2000, that his animals were allegedly running at large.

THE STATE CHOSE IMPOUND, 3-20-2000, AND TO REMOVE TO McHENRY COUNTY, ILLINOIS, THE ANIMALS OF Defendant ROBERT J. SHARPENTER 3-20-2000, WITHOUT PRIOR NOTICE IN THE YEARS 2000 AND 1999. Defendant ROBERT J. SHARPENTER did not believe he received sufficient notice.

Attorney Bruce F. Bowman filed a Memorandum of Law, 11-20-2000. Some of those pages are at A134-139, PET LA 182-187, and include a quotation from discovery produced by Kendall County Assistant States Attorney ERIC WEIS. A143, PET LA 101, US 36-37

The 3-31-1998 Kendall County Sheriff's Department report by Deputy MARK BUNTING #71, concerns requirement of notice,

and ERIC WEIS 3-31-1998 interpretation of the statute, and is contained in answer to Defendant's Motion for Discovery signed by ERIC WEIS and filed in this case 10-17-2000, and states:

> "I made contact with Assistant State Attorney ERIC WEIS by telephone and related to him what had been transpiring in the Century State Subdivision regarding the animals. WEIS advised me that the next step in remedying the situation would be to serve SHARPENTER with Notice of Violation of the Illinois Domestic Animals Running at Large Act. Once that action has been taken, any subsequent incidents with the animals would require that a Notice of Impoundment be issued to SHARPENTER through registered mail. Upon that step being taken any additional problems with the animals would result in the animals being impounded at that time." A143, PET.LA 101, US 36-37

At the Hearing at the Kendall County Courthouse 10-24-2000 the transcript shows at pages 21, 22:

> "MR. BOWMAN: I'm trying to say they failed to allege notice, and the notice they gave Bob Sharpenter was beyond the statute of limitations. It's a 1997 notice and they picked his animals up in the year 2000. And in the sheriff's

reports that we got, there is something about Eric Weis in 1998 saying next step is to serve Bob Sharpenter with a notice that he wasn't served with a notice after 1998 and he has to be given certified or registered mail notice—"

"MR. WEIS: Judge, I'm going to object. That is not what the statute said." TRANSCRIPT 10-24-2000 (R. 10-24-2000, R. 21,22).

The Kendall County Sheriff police report shows what Assistant State's Attorney ERIC WEIS said 3-31-1998. A143, PET LA 101 US 36-37

Defendant ROBERT J. SHARPENTER'S 5-9-2000 letter to Tim McCann, States Attorney, the 5-30-2000 Trial Exhibit Defendant Exhibit 3, Trial Exhibit pages TE 9,10 shows Defendant ROBERT J. SHARPENTER did not believe he had received notice, and a 3 year old notice is not sufficient, and states in part:

"To begin with, it should have been evident to both of you from our first conversation that when I said I hadn't been served prior to or in conjunction with my animals' being removed, I meant prior to, as in a few days or a week, not 3 years ago."

"You were both aware that, my entire defense on this matter was based on the fact that I hadn't been served prior to or following removal, . . ."
Trial Exhibit 5-30-2000, TE 9,10, PET LA 43, 44.

The Petition for Reconsideration filed 6-19-2000 by Defendant ROBERT J. SHARPENTER, states at Page 3, paragraph 15:

"15. The Court should have specifically ruled that 1997 Notice is clearly inadequate. (The Judge's specific words were "I'm as troubled as you are by a 3 year old notice.") And even Mr. McCann expressed surprise that there had not been a 2000 Notice of the violation." (R. C53-55) A 50-52, PET LA 97-99.

It is not sufficient that the defendant was given notice, the evidence must also establish that he personally believed that notice had been given. Dutton v. Roo-Mac. Inc., 100 Ill App 3d, 121, A134, PET LA 182, US 61, and a copy of page 121 is at A151, PET LA 199. Although Judge James Wilson said either side could file a legal brief, the Kendall County State's Attorneys Office did not file a legal brief after the 5-30-2000 Court Hearing, and before the 6-5-2000 court order.

Defendant ROBERT J. SHARPENTER filed, pro se, 6-2-2000,

a legal brief with typed cover and 6 typed pages.
(R.C 40-46), A 37-43, PET LA 18-24.

The payments Judge JAMES WILSON ordered
6-5-2000, the order being filed 6-6-2000, are at
(R.C. 48-50, A 44-46, PET LA 91-93, US 30-35.

"2. That the cost of transporting the livestock described in the petition to the Hoofed Humane Society, Woodstock, Illinois, 60098 on March 20, 2000 in the amount of $200.00, to be paid from defendant's bond, to be paid to John C. Stewart, 21 Pletcher, Yorkville, Illinois, 60506, pursuant to statute.

3. That the cost of maintaining and caring for the livestock described in the petition, to be paid to the Hoofed Humane Society, Woodstock, Illinois, 60098, by the defendant , prior to the release of the livestock back to the defendant, pursuant to statute in the amount of $2056.00 as of June 5, 2000, plus an additional $25.00 per day for each day the livestock remain at the Hoofed Humane Society."

Those 6-5-2000 payments exceed the statutory maximum amount, $1500.00, for a Class C Misdemeanor, (R.C 165-172), A 120-127, PET LA 168-170. See Attorney BRUCE F. BOWMAN Response to State's Motion to Strike Defendant's 29 point Motion for Discovery filed 10-20-2000. (R.C.165-172), A 120-127, PET LA 168-175 AT 169-170.

Defendant ROBERT J. SHARPENTER was found 1-3-2001, NOT GUILTY, in the same case for the same four days 3-12-2000, 3-13-2000, 3-19-2000, 3-20-2000, for the same animals, two donkeys and one goat, that were the subject of the 6-5-2000 order for payments. (R.C.245-247, 249) A 4-A7, PET LA 52-55, US 38-42.

The Appellate Court misapprehended and unreasonably applied statements of Defendant ROBERT J. SHARPENTER, and the affidavit statement by EDDIE MACKIE, (R. C 36), A-29, PET LA 77 and there is a subsequent EDDIE MACKIE affidavit (R. C 59), A 56, PET LA 103, also see SHARPENTER PETITION FOR RECONSIDERATION filed 6-19-2000, (R.C.53-55), A 50-52, PET LA 97-99.

Cases are not perfect; people are not perfect; that is why cases are tried.

A subsequent order entered in the same case is controlling. Two appellate court subsequent order cases are at the top of page 6 of the Petition for Rehearing filed 3-27-2002. Pages 1-13, PET LA 5-17. People v. McCarty, 11 Ill. App. 3d 421, 296 NE 2d 862 (1973), Manny Cab Co. v. McNeill Teaming Co. 28 Ill. App. 3d 1014, 1021, 329 NE 2d 376 (1975).

Defendant ROBERT J. SHARPENTER thinks it is important to emphasize in the United States Supreme Court Petition:

1. There are many ways to get in touch with ROBERT J. SHARPENTER, including telephone answering machine, note on the door, pager number 888-990-3123.SHARPENTER LEGAL BRIEF, paragraph 23, A37-43, PET LA 18-24.

2. Before impoundment, and when notified as in 1997, Defendant ROBERT J. SHARPENTER made necessary repairs. SHARPENTER PETITION FOR RECONSIDERATION paragraph 2, (R.C. 53-58) A50-52, PET LA 97-99.

3. Assistant State's Attorney ERIC WEIS 3-31-1998 interpretation of the statute is shown in Kendall County's Sheriff's police report 3-31-1998 by Deputy MARK BUNTING, #71 filed by ERIC WEIS 10-17-2000 in this case, and requires notice after 3-31-1998, and that Sheriff's police report quotation is also at A 136, PET LA 184, US 36-37.

"I made contact with Assistant State Attorney ERIC WEIS by telephone and related to him what had been transpiring in the Century State Subdivision regarding the animals. WEIS advised me that the next step in remedying the situation would be to serve SHARPENTER with Notice of Violation of the Illinois Domestic Animals Running at Large Act. Once that action has been taken, any subsequent incidents with the animals would require that a Notice of Impoundment be issued to SHARPENTER through registered mail. Upon that step being taken any additional problems with the animals would result in the animals being impounded at that time." A143, PET LA 101, US 36-37.

4. In his 1-2-2001 letter, Judge JAMES WILSON said on page 3,

"A prior 1997 notice is insufficient to support the criminal complaints alleging events that occurred in March 2000." A 4-7, PET LA 52-55, US 38-42.

The 1997 notice should be considered insufficient concerning Judge JAMES WILSON'S 6-5-2000 order for payments. The Statute 55/1.2 requires notice of the violation shall be given.

Defendant ROBERT J. SHARPENTER hired Court Reporters for 3 days and Attorney BRUCE F. BOWMAN hired court reporters to go to the Kendall County Court House, Yorkville, Illinois, for court proceedings set for 4 days.

The 3-20-2001 record on appeal prepared by Kendall County for the Appellate Court did not contain transcripts for 10-20-2000, and 10-24-2000, and 10-30-2000, and 11-27-2000, and did not contain some favorable to the Defendant court filings. Attorney BRUCE F. BOWMAN filed 3 motions in the Appellate Court to Supplement the 3-20-2001 Kendall County Record of Appeal.

The Record on Appeal prepared for the Appellate Court by Kendall County included pages concerning Newark and Lisbon that are unexplained inclusions and actually in the Record on Appeal as Clerk numbered pages C-240, C-241, C-242, C-243.

LOREN STROTZ, Clerk of the Appellate Court, died in September, 2001. A copy of Attorney BRUCE F. BOWMAN'S 3-21-2001 letter to LOREN STROTZ is included with the 10-15-2002 Motion for Leave to File Motion for Reconsideration and/or Rehearing of Petition for Leave to Appeal filed 5-3-2002.

WHEREFORE, Defendant ROBERT J. SHARPENTER asks for United States Supreme Court Writ of Certiorari:

(1) There is a conflict with prior court decisions. Defendant ROBERT J. SHARPENTER was subsequently found NOT GUILTY on all four counts, in the same case, for the same animals for the same four days by order entered 1-3-2001. Also, Judge JAMES WILSON was previously reversed by the Illinois Appellate Court in a case involving the word "shall".

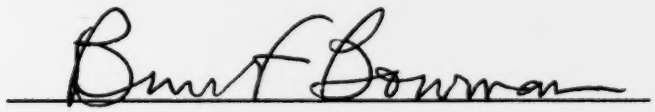
(2) Constitutional Amendment issues are involved. Property being actually seized, and actually taken, and impounded, without sufficient notice, in violation of Constitutional Amendments Four, Eight, and Fourteen.

(3) Constitutional Amendment issues are involved, the payments Judge JAMES WILSON ordered 6-5-2000 exceed the maximum amount, $1,500, for a Class C Misdemeanor.

(4) For such other and further relief as equity may require.

Respectfully Submitted,

ROBERT J. SHARPENTER, Defendant-Petitioner



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